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International Economic Conference, Genoa, 1922
Memorandum sent to the Russian delegation ... 1922.

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MEMORANDUM

RUSSIAN DELEGATION.

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MEMORANDUM

SENT TO THE

RUSSIAN DELEGATION,

WEDNESDAY, MAY 3rd, 1922.

Presented to Parliament by Command of His Majesty.

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MEMORANDUM SENT TO THE RUSSIAN DELEGATION,

Wednesday, May 3rd, 1922.

MR. VICE PRESIDENT.

I HAVE the honour to transmit to you the enclosed document.

I have to add that the French Delegation defers its final approval of the enclosed document until it has received instructions from its Government.

Please accept, Mr. Vice President, the assurances of my highest consideration.

(Sgd.) F. SCHANZER.

MR. GEORGE TCHITCHERINE,
Vice President of the Russian Delegation.
Hotel Imperial,
Rapallo.

MEMORANDUM.

The problem of the restoration of Russia, with a view to the re-establishment of peace over the whole of the Continent of Europe, has been considered in the most serious and sympathetic manner. There is a general and sincere desire that friendly relations should be restored among all the nations and that the Russian people may take its historic place among the European Powers.

Russia in the past has been an important element in the economic system of Europe. But to-day her exhaustion is complete after the events which have drained her resources for the last eight years, and her elimination from the European economic system has added to the troubles from which the world is suffering.

Every year the world deficiency in food and raw material due to the failure of Russian supplies is being made up from other sources.

In due course, the gap would be filled so far as the rest of Europe is concerned, for trade, like water, finds new channels when the older channels are blocked But in Russia itself, privation, misery and famine would continue to spread and thus constitute a plague spot of increasing menace to the European system. Such a fate for Russia and for Europe the Powers are deeply anxious to avert.

The reconstitution of Russia must take place above all in the interests of Russia herself. But Russian prosperity cannot be revived without the assistance of the capital and the commercial

experience of the west. As soon as the feeling of security has been revived in Russia, that is to say, when the nationals of foreign countries have guarantees that they can resume their former industrial or commercial and agricultural undertakings, and start new ones, with the certainty that their property and their rights will be respected and the fruits of their enterprise secured them, they will hasten to afford Russia the benefit of their technical knowledge, their work and their capital.

Russia is a country of great possibilities. Economic disaster has paralysed, but has not destroyed, her resources. If Russia and the Russian people are to recover, the resources of Russia must be developed. Her agriculture, which is fundamental to her economic system, must be restored; her mines must be re-opened; and her factories must be set to work again. The other nations of the world played a great part in the development of Russia. They will play that part again as soon as Russia establishes conditions which command their confidence.

The needs of Russia are so manifold that they can only be met by once more throwing open the Russian market to foreign manufacturers and traders. To-day Russia is urgently in need, not only of food and clothing, medical supplies and other necessaries of normal existence, but also of locomotives, wagons, agricultural implements, tools, machinery and port appliances. If these goods are not supplied to Russia, her transport system will fall to pieces, her industries will rapidly become derelict, and the yield from the land will steadily fall.

All these supplies can be furnished by the industrial countries. As soon as security in Russia has been re-established for former owners and debts are recognised, the importation of these necessaries will recommence. Capital will flow into Russia the moment confidence begins to revive. And at the same time foreign enterprise and experience will be available for the reconstruction of the country.

There is not a country which is unable to render an effective contribution to the work of reconstructing Russia; some by financial help, others by the rapid resumption of the manufactures or public utility undertakings which they owned there; and still others by the skilled workers which they will be able to send there. All the countries represented at Genoa have indicated their willingness to co-operate in this work, each according to its capacity.

Their Governments also are ready to hasten this restoration. It will be necessary to overcome the hesitation on the part of business men, who will fear the loss of capital which they might sink in a country thus deprived for the time being of the normal means of production. As soon, however, as the first pioneers have succeeded in their enterprise, others will follow in their footsteps. The object and the justification of Government assistance will be to make these first attempts succeed.

Measures have already been taken in several countries for this purpose, and Russia will be able to obtain the benefit of

these measures as soon as it is possible to conclude with Russia an arrangement in conformity with the clauses which follow.

Several countries of Europe have decided to establish an international corporation with an initial capital of £20,000,000. Its aim is to finance reconstruction and development undertakings in Europe which, without assistance, would have difficulty in procuring the necessary funds. This sum may seem small in comparison with the magnitude of the work to be done. But it only includes the capital subscribed through the national companies formed in the leading countries. Behind it stand the resources of all these countries, resources which are available for financing operations approved by the international corporation.

In addition to this, certain countries are in a position to advance immediately substantial sums to those of their nationals who will trade with Russia or settle there for that purpose. To these facilities must be added the private credits which manufacturers who have the assurance that their undertakings can be successfully resumed in Russia will not fail to receive from the national banks.

The British Government can guarantee under the Trade Facilities Act the capital or interest required for capital undertakings, overseas as well at at home, to develop economic reconstruction in Europe. If the Soviet Government is prepared to take the steps needed to encourage enterprise, then this Act can be applied to Russia. The sum authorised by this Act was £25,000,000. If necessary, Parliament will be invited to increase the amount to be made available.

In addition to the facilities offered by this Act, there is an Export Credits Scheme for financing the export of Britsh goods. Under this scheme, the British Government is authorised to guarantee transactions up to £26,000,000. Of this £26,000,000, £11,000,000 has been pledged. The British Government will be prepared to invite Parliament to extend the duration of the Act in question.

France, by reason of the effort which she is obliged to make in order to restore her own devastated regions, cannot at this moment afford direct financial assistance for the reconstruction of Russia. Nevertheless, the French Government accepted at Cannes the principle of taking a part in the International Corporation equal to the English part.

France can send to Russia seeds of all sorts. Negotiations have already taken place with the Soviets on this subject. Detailed plans have been prepared for the despatch and use of tractors. Several thousands of these tractors could be sent with the necessary technical personnel. Machines and technical personnel can be sent in order to establish veterinary stations and institutions for agricultural study.

With regard to transport, France can offer rolling stock of approximately twelve hundred locomotives, twenty-five thousand

goods wagons, three thousand five hundred railway carriages and vans. It would be possible to form a special company for undertaking repairs, and repair shops could be let to the company which would supply the technical personnel.

Finally, French industrialists, who in great numbers have contributed to the wealth of many parts of Russia, would be able to re-start their establishments as soon as they received the necessary guarantees. These industrialists would undoubtedly find in France or abroad, thanks to the confidence which they inspire, the necessary capital and the technical staffs which will be needed.

Italy, by subscribing 20 per cent. of the capital of the International Corporation, purposes to render substantial financial help as regards both the immediate aims of this organisation and its future development. She is also ready to support every undertaking which is set up in order to re-establish transport by rail or water, and to foster the marketing of Russian produce. She is also ready to contribute through her agricultural organisations and by her experience to the restoration of agriculture and to participate in co-operation with Russia in the industrial and agricultural re-equipment of the country.

Offers of help are also held out by Japan. The Japanese Government, with a view to encouraging trade with Russia, have granted a credit of eight million yen to the Russo-Japanese Trading Company. The Japanese Government has also the intention of taking further measures, if it deems it necessary, with the object of furthering trade relations between the two countries.

Time is an indispensable factor in the reconstruction of Russia, but the important thing is to make a start. As soon as the first impulse has been given, as soon as the first pioneers have been able to settle in Russia, and to make known the fact that they have been successful, and have demonstrated to themselves and their compatriots that the way which had been closed for so long is open and safe, others will follow and their number will be all the greater because the road has been barred so long.

In these circumstances, the following conditions, dealing with the more important questions requiring adjustment, are submitted to the Russian Delegation by the Delegations of Italy, France, Great Britain, Japan, Poland, Roumania, Switzerland and Sweden, represented on the Sub-Committee of the First Commission. The final approval, however, of the French Delegation is reserved until it receives its instructions from its Government.

Clause I.

In accordance with the terms of the Cannes Resolution that all nations should undertake to refrain from propaganda subversive of order and of the established political system in other countries than their own, the Russian Soviet Government will not interfere in any way in the internal affairs and will refrain from any action which might disturb the territorial and political

status quo in other States. It will also suppress all attempts in its territory to assist revolutionary movements in other States.

The Russian Soviet Government will use all its influence to assist the restoration of peace in Asia Minor and will adopt an attitude of strict neutrality between the belligerent parties.

Clause II.

(1) In conformity with the Cannes Resolution, the Russian Soviet Government recognises all public debts and obligations which have been contracted or guaranteed by the Imperial Russian Government or the Russian Provisional Government or by the Soviet Government itself towards foreign Powers.

Being desirous of facilitating the immediate reconstruction of Russia and the rehabilitation of her credit, the creditor Powers are willing to make no claim upon Russia at present, either as to capital or interest, for the repayment of the advances made to the Russian Governments during the war.

(2) The Allies can admit no liability for the claims against them set up by the Russian Soviet Government for loss and damage suffered during the revolution in Russia since the war.

(3) When an arrangement is concluded between the Allied and Associated Powers for the liquidation or rearrangement of war debts, the Allied Governments concerned will submit to their Parliaments measures for reducing or modifying the amount due by the Russian Soviet Government on similar lines and with due regard to the economic and financial condition of Russia; but these measures will be conditional on the renunciation by Russia of the claims mentioned in paragraph 2.

(4) Where responsibility for liabilities contracted by the the Russian Soviet Government or its predecessors towards foreign nationals has been assumed by a foreign Government, the liabilities will be treated on the same footing as private debts in accordance with Clause IV.

(5) The provisions of this clause will not apply to balances standing to the credit of a former Russian Government in any bank situated in a country of which the Government made advances to a former Russian Government, or assumed responsibility for any Russian Government loan floated in that country between 1st August, 1914, and 7th November, 1917. Such balances shall, without prejudice to the rights of third parties, be transferred to the Government concerned. The liability of the Russian Soviet Government in respect of war debts shall be *pro tanto* reduced.

Clause III.

All financial claims by other Governments upon the Russian Soviet Government, and by the Russian Soviet Government upon other Governments, excepting those dealt with in these clauses, shall, subject to any special arrangement which may be made, remain in suspense until the agreement referred to

in Clause II, paragraph 3, has been concluded. The claims shall then be extinguished.

Nevertheless, this claim shall not apply to claims on behalf of the nationals of other Powers on account of the action in Russia of the Russian Soviet Government, or to claims on behalf of Russian nationals on account of the action in other countries of the Governments of those countries.

Clause IV.

In conformity with the general principle admitted by all Governments, the Russian Soviet Government recognises its obligation to fulfil the financial engagements which it or its predecessors, that is to say, the Imperial Russian Government, or the Provisional Russian Government, have contracted *vis-a-vis* foreign nationals.

Clause V.

The Russian Soviet Government undertakes to recognise, or to cause to be recognised, the financial engagements of all authorities in Russia, provincial or local, as well as all public utility enterprises in Russia contracted before this date *vis-a-vis* the nationals of other Powers, unless at the time when the engagement was contracted the territory in which the authority or enterprise was situated was not under the control of the Russian Soviet Government, or of the Russian Provisional Government, or of the Russian Imperial Government.

Clause VI.

The Russian Soviet Government agrees to conclude an arrangement within twelve months of the coming into force of this Clause with the representatives of foreign holders of bonds and bills issued or guaranteed by the Russian Soviet Government or its predecessors, for ensuring the re-starting of the service of the loans and the payment of the bills. This arrangement will cover terms and dates of payment, including remission of interest, so that adequate account may be taken both of the actual conditions in Russia and of the necessity for her reconstruction.

The said arrangement shall apply as far as possible to all foreign holders without distinction of nationality.

In case a collective agreement cannot be reached, the benefit of an arrangement concluded with any particular group may be claimed by all other foreign holders.

If no such arrangement as is referred to in paragraph 1 can be concluded, the Russian Soviet Government agrees to accept the decision of an Arbitration Commission. This Commission shall consist of a member appointed by the Russian Soviet Government, a member appointed by the foreign holders, two members and a President appointed by the President of the Supreme Court of the United States, or failing him by the Council of the

League of Nations or the President of the Permanent Court of International Justice at the Hague. This Commission shall decide all questions as to the remission of interest and as to the mode of payment of capital and interest and will take into account in so doing the economic and financial condition of Russia.

The procedure laid down in this Clause as to Russian Government bonds and bills shall also be applied in the case of the financial obligations referred to in Clause V.

Clause VII.

In order to encourage the re-starting of foreign economic activity in Russia and to permit foreign States to furnish to Russia the aid indicated above in the introduction and thereby to facilitate the restoration of the country, the Russian Soviet Government accepts the following arrangement with respect to private property :

Without prejudice to its freedom, as recognised in the Cannes Resolution, to regulate its system of ownership, internal economy and government, and to choose for itself the system which it prefers in this respect, the Russian Soviet Government recognises its obligation, in accordance with the said Resolution, to restore or compensate all foreign interests for loss or damage caused to them when property has been confiscated or withheld.

In cases in which the previous owner is not enabled to resume possession of his former rights, the Russian Soviet Government will make an offer of compensation. If no agreement is come to between the previous owner and the Russian Soviet Government as to the nature and amount of the compensation, the previous owner shall be entitled to submit to the Mixed Arbitral Tribunal referred to hereafter the question whether the compensation offered by the Russian Soviet Government is just and adequate.

If the Mixed Arbitral Tribunal decides that the compensation is just and adequate, it must be accepted by the previous owner ; but if the Tribunal decides that the compensation is not just and adequate, and the Russian Soviet Government and the previous owner are still unable to reach an agreement as to the compensation, the previous owner shall receive from the Russian Soviet Government a grant of the enjoyment of the property on terms not less favourable in all matters relating to its use and disposition than the rights he previously possessed ; provided, however, that where the Mixed Arbitral Tribunal decides that the grant of the enjoyment of the property is impracticable and that compensation must be given, the amount, if not agreed, shall be fixed by the Mixed Arbitral Tribunal and shall be payable in bonds.

In cases in which the Russian Soviet Government cannot give back the property it shall not be entitled to hand it over hereafter to other parties. If the Russian Soviet Government

proposed at a later date to hand it over as above, a preference shall be given to the previous owner.

If the exploitation of the property can only be ensured by its merger in a larger group, the preceding provision shall not apply, but the previous owner shall be entitled to participate in the group in proportion to his former rights.

The term "previous owner" shall include Russian financial, industrial and commercial companies, which at the date of nationalisation were controlled by nationals of other Powers, or in which at the same date such nationals possessed a substantial interest (either as shareholders or bondholders), if the majority of the foreign interests so desire. It shall also include a foreigner entitled to the beneficial use of property in Russia which was vested in a Russian nominee.

In cases in which a claim is not put forward in virtue of the preceding paragraph, a claim for compensation in conformity with this clause may be put forward by any foreign national interested in a Russian company in respect of injury or loss suffered by the company.

In the settlement of claims and in awards of compensation in respect of private property, provision shall be made for the protection of claims which third parties possessed against the property.

In cases where damage has been done to the property in consequence of the action or negligence of the Russian Soviet Government, compensation in accordance with the principles of international law shall be assessed by the Mixed Arbitral Tribunal.

Clause VIII.

Provision shall be made by the Russian Soviet Government for enabling foreign nationals to enforce their claims against private persons in Russia.

If the payment of the sums due has been rendered impossible by the action or negligence of the Russian Soviet Government, the liability must be assumed by that Government.

Clause IX.

Pecuniary compensation awarded under Clause VII will be paid by the issue of new Russian 5 per cent. bonds for the amount fixed by the Mixed Arbitral Tribunal.

The terms as to the payment of interest on these new bonds, and the terms as to their amortisation, shall be similar *mutatis mutandis* to those for old bonds as fixed by the Arbitral Commission referred to in Clause VI.

Clause X.

Mixed Arbitral Tribunals shall be appointed for each country to decide questions as to the compensation to be paid under these clauses. These Tribunals shall consist in respect of each country

of one member appointed by the Russian Soviet Government, one member appointed by the Government of the national concerned, and a President appointed by the President of the Arbitral Commission referred to in Clause VI.

Clause XI.

The re-starting in the shortest possible time of enterprises of all kinds which belonged to foreigners before the events of 1917, and the establishment of new enterprises being of the greatest importance for the rapid reconstruction of Russia, the Russian Soviet Government undertakes to take all necessary measures for ensuring forthwith the protection of the person, the property and the labour of foreigners.

For this purpose the administration of justice in Russia shall be provided for as set out in Article 8 of the Recommendations of the Experts in London, and foreigners shall be allowed to reside and trade in Russia in accordance with the provisions of Articles 9-17 of the said Recommendations. (*See* Annexe.)

Clause XII.

Special arrangements will be made in agreement with the Russian Soviet Government for the settlement of questions relating to the liquidation of pre-war contracts between Russian nationals and foreigners, and questions relating to prescriptions, limitations, and foreclosures.

Clause XIII.

The Russian Soviet Government will restore to the Roumanian Government the valuables deposited at Moscow by the said Roumanian Government.

ANNEXE.

Articles 8-17 of the Recommendations of the Experts in London.

A.—*Administration of Justice.*

Article 8.—The Russian Soviet Government shall undertake to provide for the good administration of justice in accordance with the following principles:—

(1) Independence of the judicial authority *vis-a-vis* the executive authority.

(2) Administration of justice in public by professional judges, who must be independent and irremovable.

(3) The law to be applied must be known and published; it shall be equal between persons and have no retroactive effect. It shall afford adequate guarantees to foreigners against arbitrary arrests and domiciliary visits.

(4) Foreigners shall have free access to the courts, and no disability shall attach to foreigners as foreigners; they shall be entitled to be represented before the courts by counsel of their own choosing.

(5) The rules of procedure to be observed in the courts shall be such as to facilitate the thorough and rapid administration of justice. The right of appeal and of new trial shall be assured.

(6) The parties to a contract shall have the right to provide that a foreign law shall apply; the courts must in such case apply that law.

(7) Just procedure shall be established in order to ensure the execution of valid foreign judgments, including judgments of foreign courts based on a provision in a commercial contract conferring jurisdiction on that court.

(8) The validity of a clause in contracts for the arbitration of any or all disputes arising therein shall be recognised and rules shall be made for enforcing arbitration awards, including those given in a foreign country.

B.—*Conditions of Residence and Trade in Russia.*

Article 9.—The Russian Soviet Government shall undertake to permit the entry and egress of foreigners into and from its territory in accordance with the usual practice of States.

Article 10. Foreigners while sojourning in Russia shall be exempted from all kinds of compulsory services and from any contributions whatever imposed as an equivalent for personal service; they shall not be subject to any forced loans.

Article 11.—Foreigners shall be at liberty to communicate freely by post, telegraph or wireless telegraph, and to use telegraph codes under the conditions and subject to the regulations laid down in the International Telegraph Conventions.

Article 12.—Foreigners shall enjoy all protection, rights and facilities which are necessary to enable them to carry on any permitted trade, profession or occupation in accordance with the usual practice of States; they shall not be subject to any discriminating legislation or restrictions on account of their nationality. They shall not be compelled to join any local organisation.

Article 13.—No discrimination against the workmen employed in undertakings belonging to foreigners or directed by foreigners shall be exercised in respect of military service, or forced labour; nor shall any taxation be levied in lieu thereof.

Article 14.—Foreigners shall have adequate facilities for travelling on Russian railways, roads, and waterways, and for the carriage of their goods and merchandise. These facilities shall not be less than those accorded to Russian Government enterprises or Russian nationals and shall be applied without discrimination.

Article 15.—Requisitions shall not be imposed save in exceptional circumstances and subject to adequate compensation payable at the time.

Article 16.—Foreign companies and associations duly constituted shall be allowed to carry on any business open to foreigners in Russia, and for this purpose shall have the same rights as private individuals including that of appearing before the tribunals.

Article 17.—Foreign firms or individuals, and also foreign companies and associations, carrying on any permitted trade, profession, or occupation in Russia shall be subject to no higher taxation than is borne by Russian nationals.

The system of taxation shall not in practice impose on branches of foreign companies carrying on permitted trades, professions, and occupations in Russia any greater burden of taxation than on similar businesses carried on there by Russian companies.

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